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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1274th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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CLOSURE OF THE SESSION

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GE.98-15617 (E)

The meeting was called to order at 3.20 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 6) (continued)

Draft decision 4 (52) on Rwanda (continued) (CERD/C/52/Misc.42)

1. Mr. BANTON (Country Rapporteur) proposed, in the light of the previous discussion, adding at the end of paragraph 4 of the text another clause which would read "and called on the international community to give increased assistance to those affected". The following new paragraph 5 would also be added: "The Committee expressed alarm at reports that a new round of genocidal violence has commenced".

2. Draft decision 4 (52) on Rwanda, as amended, was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Extension of the Committee's sessions (CERD/C/52/Misc.47)

3. Mr. SHERIFIS proposed the following draft decision (CERD/C/52/Misc.47): "The Committee on the Elimination of Racial Discrimination, wishing to keep abreast of its increasing workload and to respond adequately to the current discussions on the reporting process, decides that it is necessary to extend its forthcoming session by five working days. It therefore requests the Secretary-General to take appropriate steps for the implementation of this decision".

4. The CHAIRMAN said that, as the secretariat needed to plan for sessions at least a year in advance, requesting an extension of the forthcoming session would require more time.

5. Mr. HUSBANDS (Secretary of the Committee) said it had taken the Committee against Torture two years to get an additional five working days for its sessions, in part because it had also requested additional time for a particular session, whereas what it had wanted was to extend the length of its sessions on a permanent basis. Obtaining such extensions was a long process, and the chances of the request being approved for the Committee's fifty-third session in August 1998 were virtually non-existent.

6. Mr. BANTON proposed replacing the end of the first sentence with the phrase, "to extend one session each year by five working days".

7. The CHAIRMAN invited the Committee to vote by show of hands on the draft decision, as amended.

8. The draft decision was adopted by 10 votes to 1, with 2 abstentions.

The practice of the Committee (CERD/C/52/Misc.23/Rev.1)

9. The CHAIRMAN invited the Committee to consider the memorandum on the practice of the Committee (CERD/C/52/Misc.23/Rev.1) prepared by Mr. Banton.

10. Mr. BANTON said that, following comments from colleagues, he would be willing to drop the reference to advance notice in the interests of consensus. However, a good principle was not invalidated by its having been abused by a particular State. He invited members to study the document for consideration at the next session, and suggested that the Committee should request the Secretary to brief delegations and reporting States on its content.

11. It was so decided.

12. Mr. de GOUTTES said that, with one exception, all the concluding observations adopted by the Committee had been issued in English only. He regretted that the texts were not available in the Committee's other official languages, and expressed a reservation with regard to the final French version to be prepared, as he had not yet seen it.

13. With reference to the agenda for the next session, there was one item which should not be forgotten: liaison with other human rights treaty bodies and institutions dealing with racial discrimination. The Committee had decided in 1993 to designate each member as a contact point. However, the Committee's membership had changed and the list of contact points should be revised.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 12) (continued)

Seminar on immigration

14. Mr. BANTON, introducing the report of the Secretary-General on the Seminar on Immigration, Racism and Racial Discrimination (E/CN.4/1998/77/Add.1), which had been held in Geneva from 5 to 9 May 1997 within the context of the Third Decade to Combat Racism and Racial Discrimination, said he wished to draw attention to two paragraphs in the conclusions and recommendations. In paragraph 35, the Seminar recommended that the Committee should consider whether article 1, paragraph 2, of the Convention, establishing a distinction between citizens and non-citizens, was compatible with the principles of equality and non-discrimination. As stated in a footnote, he had dissociated himself from that recommendation; he had done so because he thought it was not for the Committee to criticize the Convention whose implementation it had been appointed to monitor. He had also queried whether the Seminar should tell the Committee how to do that.

15. Paragraph 39 stated in part, "Many countries provide consular support to migrants of their nationality and in this way come to learn about discriminatory practices. States may wish to determine whether there is any basis on which consular information might be fed into the process by which treaty bodies monitor implementation". The point was that some States had a lot of migrants moving to other countries and would not be willing to have their consular information submitted during consideration of initial reports, which would seem an unfriendly act. They could, however, pool that information and feed it into the process by which the Committee monitored implementation of the Convention.

16. In reply to a question by the Chairman, he said the report, which was a document of the Economic and Social Council and the Commission on Human Rights, had not yet been considered by any other body. If he learned of any such consideration, he would inform the Committee accordingly; otherwise, the Committee could regard its consideration as completed.

17. The CHAIRMAN suggested that the Committee should take note of the report.

18. It was so decided.

Expert seminar on the role of the Internet

19. Mr. SHAHI introduced the report of the expert seminar on the role of the Internet in the light of the provisions of the Convention (E/CN.4/1998/77/Add.2), which had also been held in the context of the Third Decade in Geneva (10-14 November 1997). He had presented a paper on the obligations arising under the Convention and the relevant provisions of the Universal Declaration of Human Rights and the International Covenants. Many of the papers submitted had acknowledged limitations on the right to freedom of expression, assembly and association. Many Internet providers had been guided by the principles of the United States Constitution whereby the Internet should not be regulated at all as it was a new medium with tremendous potential for education, employment and the dissemination of culture. He had taken the position that it could not be exempt from the obligations of international law, as spelled out in the Covenants and the Convention, and that prohibition of dissemination of racist propaganda and discrimination was as applicable to the Internet as to speech and to print and broadcast journalism. The United States Department of Justice, on the other hand, had argued that the best way to counter racist propaganda was to refute it, rather than to impose legal restraints which would be contrary to freedom of expression.

20. The seminar had discussed the treatment in his paper of the "due regard" clause in article 4 of the Convention, and generally accepted the view that the Internet could not be exempt from the obligations of international law. Service providers and NGOs had argued that, because it would be costly and time-consuming to monitor Internet traffic, they should be treated as common carriers like telephone and telegraph companies. Some NGOs had said that there should be no restrictions on Internet whatsoever and that its benefits were far in excess of any harm that could develop from its use to disseminate hatred.

21. At the seminar he had cited a paper prepared by the delegation of Australia for a previous seminar examining the implementation of obligations under the Convention, which pointed out that many democratic countries proscribed hate propaganda on the Internet and did not follow the rule laid down in the United States Constitution that there should be virtually absolute freedom of speech. While there was general acknowledgment that the Internet was sometimes used irresponsibly, the consensus had been that undue consideration should not be given to United States law.

22. Many participants had said that due regard for the rights to freedom of assembly and association could not be construed as justifying failure to punish the dissemination of racial hatred. He had cited a statement made by Mr. Valencia Rodriguez at a previous seminar to the effect that interpretations of the Convention were without legal effect. The view of the seminar had been that the relevant provisions of the International Covenants, the Universal Declaration and article 4 of the Convention on the Elimination of Racial Discrimination should be used to determine what should be permitted on the Internet. One of its recommendations, mentioned in paragraph 155 of the report, had been that the Committee, in examining reports by States parties, should include references to the Internet.

23. Other participants had said that disallowing racist platforms in cyberspace would not eradicate racism. The enormous resources needed to monitor the Internet should instead be channelled into building Internet capacity in regions that were lagging in terms of technology. The NGOs had emphasized that racism had existed long before the Internet had come into being and would be eradicated only through education and empowerment of disenfranchised communities.

24. Among the other points discussed at the seminar had been the extent to which the rights to freedom of association and freedom of assembly were limited under the provisions of international instruments. Reference had been made to several court judgements, and he thanked Mr. de Gouttes for providing him with information on the European Court's interpretations of the "due regard" clause.

25. Many participants had pointed out that their national parliaments had enacted measures to prohibit racist material on the Internet, but underlined the fact that the problem must be tackled at the international level as well. There had also been considerable discussion of how the Internet was used to victimize indigenous populations throughout the world.

26. The representative of Sweden had spoken about the Swedish Responsibility for Electronic Noticeboards Bill, under which providers would be obliged to give users information about their identity and to prevent continued dissemination of messages inciting to criminal acts. The NGOs had objected strongly to mandatory identification of providers, arguing that such a rule would enable repressive Governments to pursue dissidents and stifle criticism. The Swedish law was important because, to some extent, it made providers responsible to some extent for what was transmitted by their services.

27. Some possible controls discussed included filtering and labelling Internet content and establishing a system of mandatory signatures to identify the origin of messages. Some participants had argued that a system of mandatory signatures could easily be evaded and that there should be no attempt to end anonymity on the Internet.

28. Emphasis had been placed on the need for education to counter racist propaganda on the Internet; references had been made to the importance of the Internet as a tool of the human rights community and to the Websites of United Nations Headquarters and of the High Commissioner for Human Rights.

29. There had been much discussion of a code of conduct for the Internet, a matter which many felt should be given further consideration by the Commission on Human Rights.

30. Considerable stress had been laid on preventing the widening of inequalities between the developed and developing countries. Internet users were expected to number 1 billion in the next few years, but only 0.6 per cent of the computers that gave access to Websites were found in developing countries. Unless the United Nations played a role in providing wider access to the Internet for the developing world, inequalities between North and South, and between population groups within States, would grow.

31. In conclusion, he said that in view of the Internet's enormous potential for disseminating hate propaganda, pornography, paedophilia and other evils, it would be a subject of continuing concern to the Committee and all other human rights bodies.

32. Mr. RECHETOV said that the seminar had dealt with a number of questions of importance to the Committee. There was no doubt that the Convention should be taken into account in the framing of a code of conduct for the dissemination of material over the Internet.

33. He regretted that time constraints had not permitted Mr. Shahi to discuss the question of reservations to the Convention. In his view, such reservations were not compatible with the Convention and he hoped there would be time to discuss them at the Committee's following session. He did not agree with the view that declarations made at the signing or ratification of the Convention had no legal effect, as they were unilateral acts of States. They raised a fundamental question for discussion, namely who had the right to interpret the Convention.

34. The CHAIRMAN thanked Mr. Shahi for his explanation of the report of the seminar. He drew Mr. Rechetov's attention to paragraphs 39-41 of the report of the seminar, which dealt with the question of reservations to the Convention. He suggested that the Committee should reflect on the issues raised at the seminar, and that Mr. Shahi should report to it at its following session on the consideration given to the seminar report by the Commission on Human Rights.

CLOSURE OF THE SESSION

35. After an exchange of courtesies, the CHAIRMAN declared the fifty-second session of the Committee closed.

The meeting rose at 4.25 p.m.